

REMARKS/ARGUMENTS

Claims 1-23, 28-38, 40-42, 44-50, 52-54, 56-58, 60-62, 64-66, 68-70, and 72-76 are pending. Claims 3-5, 7-14, 16-23, 29-38, 40-42, 44-50, 52-54, 56-58, 60-62, 64-66, and 68-70 have been withdrawn. The Examiner has indicated that claims 1, 2, 6, 14, 15, 28, and 72-76 were examined upon their merits. Please note that the second page of the Office Action Summary erroneously indicates that claim 15 was withdrawn. The Examiner has also indicated that the art search focused on the elected hydroxides and polyhydroxides, wherein R_a , R_b , R_c , and R_d are tert-butyl and wherein Z is selected from the group consisting of carboxylic acid, carboxylic esters, amine compounds, alcohols including polyhydroxylated, terminal phosphorous acids, terminal sulfur acids, terminal heterocycles, terminal sugars and carbohydrates.

The Examiner indicated that the PTO has misplaced the Information Disclosure Statement and references submitted by Applicants on November 6, 2001. A copy of the transmittal documents, the PTO 1449 forms, and the returned postcard showing receipt of the documents at the PTO are attached hereto. We are currently re-assembling the cited documents and will forward them promptly under separate cover.

Priority Claim

The Examiner has asked for clarification of the priority claims of the application. The Application claims priority to: U.S. Provisional Application No. 60/191,046, filed March 21, 2000; U.S. Application No. 09/370,046, filed August 6, 1999; and U.S. Application No. 09/079,213, filed May 14, 1998. This claim can be found on the first page of the specification as filed. Applicants have amended the Specification to indicate that the pending application is a continuation-in-part of U.S. Application No. 09/370,046, filed August 6, 1999, which is a continuation of U.S. Application No. 09/079,213, filed May 14, 1998, and claims priority to the provisional application. Applicants also submit herewith a request to correct the formal Filing Receipt, along with the required documents. As the Examiner has pointed out, the priority claim is correctly provided on the front page of the application.

The Examiner has also requested clarification on the relationship between PCT Publication No. WO 98/51662, U.S. Application No. 09/370,046, now U.S. Patent No.

6,548,699, and U.S. Application No. 09/079,213, now U.S. Patent No. 6,147,250. The PCT application was filed on the same day (May 14, 1998) as U.S. Application No. 09/079,213, and contains the same specification. These applications also claim the same priority and are assigned to the same entity. U.S. Application No. 09/370,046 is a continuation of the '213 application.

Claim Rejections under 35 U.S.C. §102

The Examiner has rejected claims 1, 2, 6, 14, 15, 28, 72, 73, 74, 75, and 76 under 35 U.S.C. § 102(b) as anticipated by Somers (WO 98/51662). The Examiner has rejected the claims over the disclosure of 6-O-[4-[[1-[[3,5-bis(1,1-dimethyl)-4-hydroxyphenyl]thiol]-1-methylethyl]thio]-2,6-bis(dimethylethyl)phenyl]-glucitol on pages 24-29. The Examiner has indicated that the claims were examined in view of a priority date of March 21, 2000. In the Amendment to the Specification, correct priority is claimed to U.S. Application No. 09/079,213, now issued as U.S. Patent No. 6,147,250, filed May 14, 1998, corresponding to the PCT publication by Somers. Therefore, withdrawal of the rejection is respectfully requested.

Double Patenting

The Examiner has provisionally rejected claims 1, 2, 6, 14, 15, 28, 72, 73, 74, 75, and 76 under the judicially created doctrine of obviousness-type double patenting over claim 1 of co-pending Application No. 10/114,351. To overcome this rejection, Applicants file a terminal disclaimer herewith over a patent issued from the allowed subject matter in the '351 application.

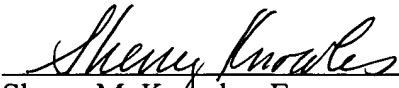
The Examiner has also provisionally rejected claims 1, 2, 6, 14, 15, 28, 72, 73, 74, 75, and 76 are under the judicially created doctrine of obviousness-type double patenting over claim 1 of co-pending Application No. 10/114,346. This application has since issued as U.S. Patent No. 6,602,914 on August 5, 2003. Applicants file a terminal disclaimer herewith to overcome this rejection.

The Examiner has asked for a copy of the pending claims of U.S. Application No. 10/060,734, which has now issued as U.S. Patent No. 6,617,352 and thus a matter of public record, and U.S. Application No. 10/115,206. The claims that have been considered allowable in U.S. Application No. 10/115,206 are attached. Applicants file a terminal disclaimer herewith.

Appl. No. 09/815,262
Amdt. dated November 26, 2003
Reply to Office Action of May 27, 2003

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,


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